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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,568	03/21/2001	Baltes Gass	Q63642	2653
7590	09/07/2004			
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 PENNSYLVANIA AVENUE, N.W. WASHINGTON, DC 20037-3213			EXAMINER GARLAND, STEVEN R	
			ART UNIT 2125	PAPER NUMBER

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/812,568	GASS, BALTES	
	Examiner	Art Unit	
	Steven R Garland	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2001 and 25 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-59 is/are pending in the application.
- 4a) Of the above claim(s) 36-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/29/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment submitted 11/29/01 has been entered and as requested claims 1-35 have been canceled.

2. Claims 36-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/25/04.

3. If applicant desires priority under 35 U.S.C 120 and 365(c) based upon a previously filed international PCT application, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. ____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

See MPEP section 1895.01 which states in part "To obtain benefit under 35 U.S.C. 120 and 365(c) of a prior international application designating the U.S., the continuing application must:

(A) include a specific reference to the prior international application (either in the application data sheet (37 CFR 1.76) or in the first sentence of the specification),

- (B) be copending with the prior international application, and
- (C) have at least one inventor in common with the prior international application. "

4. Applicant must also certify that the international application was not withdrawn or considered to be withdrawn, either generally or as to the United States, prior to the filing date of the national application claiming benefit under 35 U.S.C. 120 and 365(c) to such international application. This requirement insures copendency between the applications.

5. It is noted that MPEP section 201.11 gives guidelines as to accepting a priority claim which does not appear in the first sentence or on an ADS but appears elsewhere in the application, such as in the declaration as in the instant case. Note also MPEP section 201.11(a).

6. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Germany on 9/21/98. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

Note that until the priority claim on the basis of the PCT application is perfected that the foreign priority claim under 35 U.S.C. 119 to the German application mentioned in the declaration can not be perfected.

7. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the nature and number of amendments makes the case difficult to consider and could confuse the printer.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the

immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

8. The disclosure is objected to because of the following informalities: in the Brief Description of the Drawings, figure 1f is not mentioned.

Appropriate correction is required.

9. Claim 50 is objected to because of the following informalities: in line 1, "prodifined" should be changed to -- predefined --. In claim 51, line 1, "imaging" should be changed to -- image --. Appropriate correction is required.

10. The claims are objected to because they include reference characters which are not enclosed within parentheses. See claim 50, line 7, for example.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Art Unit: 2125

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 50-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 50, line 3, "said programmed process sites" lacks a proper antecedent basis.

Claim 50, lines 15-16, "the image of said least one marking" lacks a clear antecedent basis.

In claim 50, in the last line, it is unclear which site "said process site" refers to. It is suggested that "said" be changed to -- a selected --.

In claim 53, line 2, "the speed of the workpiece" and in line 3 "the change in position" both lack a proper antecedent basis. It is suggested that in both phrases "the" be changed to -- a --.

In claim 55, line 2, it is unclear what the phrase "comprises a set of process units including a predefined orientation" means.

Claim 56, line 2, it is unclear which site "said process site" refers to.

In claim 58, lines 5-7, it is unclear what is being determined by the analyzing.

In claim 59, line 3, "said process site"; in lines 3-4, "said coordinates of both markings" and "said coordinates of said process sites" all lack a clear antecedent basis.

13. Claim 50 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

14. Claims 51-59 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or suggest the claimed combination set forth in claim 50 and its dependent claims of a system for processing a workpiece with a recognizing means for identifying whether a process tool is in the process station; with the recognizing means designed to identify said location of said process tool in said process station ; to identify said location of said workpiece in said process station ; and to determine therefrom the location of the process tool relative to each process site and the recognizing means comprises an imaging means for imaging the process station and at least a section of said workpiece, an image processing means identifying the location of said process tool relative to said workpiece by processing the image of said at least one marking on the tool and of said at least one section of said workpiece, and a means for setting said tool to said process parameters on the basis of the position of the process tool relative to a selected process site.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pryor 6,317,953 is of interest in use of targets and an imaging device. Majic 4,787,136 is of interest in setting tool parameters.

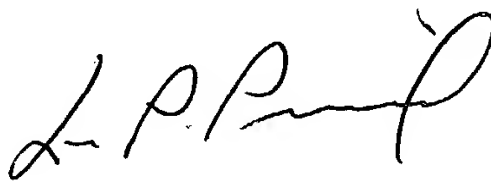
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 703-305-9759, after 10/13/04 at 571-272-3741. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on 703-308-0538 after 10/12/04 at (571)272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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STEVEN GARLAND



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